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DECISIONS OF THE GENERAL COURT.

“Upon the petition of Raphael Joyner (1640), under sheriff of James City, wherein he has complained to this Court that many of the inhabitants of the said County and others being engaged unto him for fees due unto him in or about his office, do refuse to give unto him any manner of satisfaction, the Court hath therefore ordered that upon sight hereof if any person shall refuse to satisfy him his due fees, that they make their personal appearance before the governor and council at James City on or before the 18th day of this instant (April), then and there to shew cause for such their refusal, otherwise ex’n.

“Whereas complaint hath been made to this Court that Henry Poole being in execution at the suit of Owen Floyd, atto^o of Morris Allen, of London, Merchant, in the Custody of the Sheriff of Elizabeth City which said sheriff did permit and suffer the said Poole to have and enjoy his liberty when and where he the said Poole pleased, the Court hath ordered that the said Sheriff shall retain the said Poole in his custody and not permit him neither with keep or without, to go above twenty paces from the prison until such time as he shall make satisfaction to the said Floyd, upon such penalty to be inflicted on the said Sheriff as shall be answered by the Court.”

The orders granting probate of wills and administration of

the estates of decedents had now become numerous and letters were made out in due form and signed by the Governor. Security for the faithful administration of the estate was given sometimes in the quarter court & sometime in the County Court.

"Whereas it appeareth to the court that Capt. Richard Popely did two years since kill and make use of a bull belonging to the estate of John White, the court hath therefore ordered that the said Capt. Popely shall within ten days pay unto the said White 700 pounds of tobacco with cask for forbearance, otherwise Ex'n."

"Whereas it appeareth to the court that Morris Harvey standeth indebted unto John White, by specialty in the quality of 773 pounds of tobacco, the court hath therefore ordered that the said Thos. Harvey shall forthwith satisfy unto the said White, or his assigns, two-thirds of the said debt according to the late act in that case provided, otherwise Ex'n."

That the judgments were preceded by the service of some process and the felony of a petition, is indicated by the following entry:

"Whereas Humphrey Hamner hath by process arrested Jeoffrey Pore to the quarter court upon the 8th day of April, and the said Pore hath accordingly appeared, but neither the said Hamner nor any for him hath entered any plea or petition against the said Pore, and forasmuch as the said Pore has made his appearance and attested court, whereby damages accrue unto him, the Court hath thereby ordered that Humphrey Hamner shall forthwith pay unto the said Pore, or his assigns, 80 pounds of tobacco for his charges and expenses in his such attendance, otherwise Ex'n."

Sometimes the Court would direct the commissioners for a county at their monthly court to hear and determine matters between particular parties, and sometimes it assisted in informing the judgment of a monthly court, as in the following instance:

"Whereas by act of court bearing date at Westover, in the County of Charles City, the first of April, 1639, execution was granted against the estate of Henry Blakeman of the suit of Benjamin Cornel for the quantity of 1100 pounds of tobacco due ten years since, and forasmuch as the said Cornel allegeth that no part of the estate of the said Blackman is in the said county and the said execution is of no validity elsewhere,

the Court hath ordered that execution should be awarded against the estate of the said Blackman at the suit of the said Cornell, in whose hands soever it shall remain for the foresaid quantity of 1100 pounds of tobacco, as also for the quantity of 500 pounds of tobacco for damages for forbearance and charges.

“Dec., 1640. The Court hath ordered that every person who shall take up any land shall set up their bounds at the monthly Court to the intent that no after claims may be made there to, and that then it be presented to the Secretary's office that a precept may be granted for the same.

“8, 1640. Upon the petition of Mr. Morris Hampton, minister of James City, to have 200 acres of glebe land granted unto him according to his Majesty's instructions in that behalf. And whereas there is already belonging unto the rectory of James City parish 100 acres of Glebe, the Court hath therefore ordered that a survey be made for one other hundred acres of land back unto the Said woods behind the aforesaid hundred acres already laid out, to the intent a patent may be granted unto the said Mr. Hampton and successors for the land, provided the Said Survey do not infringe the right of any other person.

“Whereas many controversies do daily arise between the parishioners and ministers throughout the Colony concerning the payment of their duties to the said ministers, the Court intervening to rectify such disorders do hereby do declare & that all parishioners shall pay unto their several ministers their tythes & duties according to an act of assembly in that case provided, viz: one bushel of corn and ten pounds of tobacco per poll for every tithable person to the said ministers and one peck of corn p'r poll for every tithable person to the clarkes & ushers, & the Said ministers are to allow these clarkes and ushers a proportionable satisfaction in tobacco according to the act.

“12 Dec., 1640. Whereas by the last grand assembly there was an overplus of twenty pounds of tobacco p'r poll allowed over and above the 160 p'r poll, thereby to support and defray public duties and charges, whereof the 20 pounds per poll for every tithable person is disposed of by the said assembly, viz: to the ministers ten pounds p'r poll which we * * according to former act of assembly is to be collected by the church wardens of every parish respectively, and the other 10 pounds p'r poll

in the said act expressed is disposed to other public uses as by the said act, and to be collected by the several sheriffs; but the 20 pounds p'r poll for untithable persons is left undisposed of by the Said assembly, nor ordered by them to be left undisposed of by the Said assembly, nor ordered by them to be collected. It is therefore ordered that the said overplus of 20 pounds p'r poll for every untithable person which is given up in the list to be planted for shall be collected and levied by the several Sheriffs of every county, and be reserved and deposited in their custody to be disposed of by the next grand assembly to such uses as they shall appoint, and in case that any person shall not make payment thereof according to the true intent of this order, it shall be lawful for the sheriff of each county to disburse as they have been authorized in case of former public levies.

“ 14 Oct., 1640. Whereas it appeareth that Francis Moryson, high sheriff of the County of Charles, was being appointed to collect and receive the levy belonging to Mr. George Sandys (agent for the County), given unto him by the last June Assembly; and whereas it appeareth that by the neglect of those that were employed by the said M. to receive the same (especially by the neglect of Samuel Walkeys, his then under Sheriff), that the said tobacco was so much damnified as great part thereof was altogether unmerchantable only by such neglect and ignorance of the receiver thereof. The Court doth therefore order that the said Mr. M. shall forthwith satisfie unto the said Mr. Sandys or his assigns, the full quantity of 4,102 pounds of regulated tobacco being good and merchantable, and that the said M. shall have his remedy against all receivers, his said under sheriffs or other persons who were employed in receiving the same and by whose means the tobacco was damnified, and that the said M. shall have power to make the best advantage to his best use of the said tobacco as yet remaining unshipped in whose hands soever the same tobacco remaineth.

“ 29 April, 1640. Whereas divers have been delinquent in paying the County levies until the time for the receiving of tobacco was too far spent, and whereas divers have part their tobacco unshipt, the court doth therefore order that all such person or persons for such tobacco as he shall pay unshipt, he or they shall

allow 30 in the hundred being unshipt and forbearance after the sale of 8 per cent. for the year.

“19 Oct., 1640. Upon the motion of Roger Wingate, Esq., his majesty's treasurer for Virginia, to have the sheriffs to collect and receive his majesty's rents, the Court doth therefore think fit to order and appoint that the several sheriffs of the several counties do accordingly gather and levy his majesty's rents as aforesaid, according the act of assembly, they the said sheriffs having notice and directions from the said treasurer or his assigns and that the said sheriffs shall have power to * upon the goods of such persons refusing to satisfy the same, the said Mr. Wingate allowing unto the said sheriffs reasonable recompense for such their *persons* provided they give a true account thereof to the said treasurer or his assigns at every next ensuing quarter Court.

“19 Oct., 1640. Upon the petition of Geo. Read, gent., represented to the board for and on the behalf of Mr. Richard Kemp, secretary of State for this Colony, that they would be pleased to settle and confirm some order for the said Secretary or his deputy might receive the fees belonging and due to the place of Secretary or the clerks belonging to the office in regard the inhabitants of the Colony from whence any fees are due may seem scrupulous in the payment thereof in tobacco by reason of the late assembly having set a price thereon: and whereas we find that for the most part the said fees have grown due before the last assembly and formerly ordered to be paid in money which here cannot be expected in regard the principal Commodity in the country is tobacco, the Court hath therefore thought fit and accordingly ordered that all fees whatsoever either belonging to the said Secretary, his deputy, the clarke of the said office, Sheriffs or the inferior clarkes of the monthly Courts be paid unto them and every of them at the rate of 40 pounds of tobacco per cent. stripped and smoothed according to act; and the Sheriff of every county is hereby required according to an act of assembly in that case provided to be careful in collecting and gathering in the fees belonging to the said office and place of Secretary and the clarkes thereof; and whosoever shall refuse to satisfy and pay the said fees or any part thereof that the said

Sheriff shall hereby have Power to * * * upon his or their goods so refusing to satisfy the same as aforesaid.

“August, 1640. Captain William Claiborne, Esq., one of the Council of Virginia, formerly in the beginning of May last presented to the Court a petition to his Majesty for the erection of an office for the keeping of the Colony Seal which petition had been refused in England by his majesty to the Sub Ministers for foreign plantations, and upon their report to his Majesty & recommendation or the petition and the * * * conveniency of his Suit was again refused by his majesty to the governor and council: and whereas Mr. Richard Kemp was then required to attend to the answering thereof, yet notwithstanding presently did depart the Colony, the court now taking the said petition into consideration do find that the establishing of such an office is necessary in this Colony, especially since the growth thereof by which businesses have been multiplied that from the infancy of the Colony have continued as involved in the Secretary's place and so at length prove inconvenient to the inhabitants and discommodious for the Service, all offices were passing under the hand of one man which elsewhere are executed by many; therefore obedience to his Majesty's pleasure expressed in his generous reference to the board, it is by them thought fit that the said Mr. Claiborne shall be admitted to the said office of keeping of the Colony Seal, & that there shall belong to the said office the Sealing of all patents, charters, grants and commissions and whatever else hath been issued here to be appointed to pass the Great Seal and to be enrolled in the office after they have been enrolled in the Secretary's office when they pass the signet under the governor & council and precedents in the way of chancery, that the filing of all petitions and answers and interrogatories as also the making out & sealing of all Subpoenas either ad respondendum or ad testificandum but all other writs issuing as out of Chancery shall belong to this office. And whereas it is conceived that great use and benefit shall hereby rise to the colony, therefore that no pretence may be made of burthening the inhabitants, it is ordered that the appointing of the fees belonging to this office for the several particulars aforesaid shall be referred to the general Assembly. It is not thereby intended to prejudice the Secretary's office in anything that may be thought properly

to belong unto it. And that a large proportion and employment yet remains to it; let these several offices with all the profits coming thereby be considered of—

First. The answering and writing of all letters directed to or sent from the Governor and Council.

2dly. All things which pass the Governor's hand or the Signet and the recording of them in which is included a multiplicity of business as patents, commissions, charters, freedoms, extraordinary warrants, some of which are after to be enrolled again and pass the great seal.

3rdly. Passes for all persons departing the Colony.

4thly. Licenses to trade, to Hunt wild hogs, to go aboard ships, &c.

5thly. Probats of wills, administrations, recording wills, inventories, accounts, licenses for marriages, and 6thly all things belonging to the prerogative Court, which includes much business and great profit, all express and writs and all business for trials by common law, all these judgments, orders of Court, fines, alienations, search of record, copy of all these.

7thly. All things that pertain to the admiralty.

" Feb. 20, 1640 or 1641. The Court hath ordered that all those who have been or shall be appointed to be commissioners of any of the several counties within the Colony and shall afterwards remove their habitations & residences out of the County wherein they have been or shall be appointed commissions as aforesaid, that they or he so removing shall neither act in commission for the said county from whence he is removed nor be accounted for any of the said commissions.

The court hath ordered in regard to the remote distance of Accomack from the Court at James City that the commander & commissioners there shall have power to determine all causes between the inhabitants of the county not exceeding the sum of twenty pounds sterling or four hundred pounds of tobacco, provided that Argall, Yeardley and Nathaniel Littleton, Esquires, or either of them be present thereat.

" 13 April, 1641. Whereas Captain John Upton, Commander of the County of Isle of Wight, being to take his voyage to England together with Mr. Anthony Jones one of the Commis-

sioners of the same County, hath represented to the court in the behalf of the County that Mr. Peter Knight and Mr. James Luke might be added to the Commission in the said Captain Upton's absence, the Court hath therefore ordered that the said Mr. Knight and Mr. Luke shall be added to the same commission as youngest commissioners, and that the said Capt. Upton shall hereby have power to depute the said Mr. Solomon to exercise the place of Commander in his absence aforesaid.

Whereas Capt. Richard Morrison, captain of his Majesty's fort at Point Comfort, hath petitioned the board that he might have liberty to take his voyage for England in regard of many & important occasions there requiring him as also that the said captain is subject to sickness for which he intendeth to seek better means and remedy than can be here obtained, and in regard that the said captain leaveth behind him a sufficient deputy to execute the said place, which his commission gives him power to do, as also hath promised to return back by the first ship for which Mr. Robert Morrison brother of the said captain engaged himself, the Court has therefore accordingly ordered that the said Captain shall have his license granted him to take his voyage for England as aforesaid.

BACON'S MEN IN SURREY.

[FROM SURRY RECORDS, VOL. 1671-84, VA. STATE LIBRARY.]

John Price aged about 27 years deposeth:

That aboute the 23d of September last ye depo'nt being in prison at the house of Mr. Arthur Allen, did heare Arthur Long (who then had ye title of Capt:), ord'r & Comand Tho. Gibbons to take his Gun & shoote some one of the sd. Mr. Allen's Cattle, & if he could not finde any of the old steeres, to kill the first he could meete with, upon which the sd. Gibbons set out & killed a beast wheather steere or cow the depont. knows not, but